

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Richard D. Makohoniuk,**  
Petitioners-Appellants,

v.

**Dallas County Board of Review,**  
Respondent-Appellee.

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**ORDER**

**Docket No. 11-25-0256**  
**Parcel No. 16-11-126-015**

On October 25, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Richard D. Makohoniuk, requested a hearing and did not appear for the hearing. The Dallas County Board of Review legal representative is County Attorney Wayne M. Reisetter. Deputy Assessor Catherine Creighton represented it at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Richard D. Makohoniuk, owner of property located at 8220 Ashworth Road, West Des Moines, Iowa, appeals from the Dallas County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$128,780; representing \$50,120 in land value and \$78,660 in improvement value. Makohoniuk protested to the Board of Review on the grounds that the property was not equitably assessed as compared to other like properties under Iowa Code section 441.37(1)(a); and that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified Makohoniuk the January 1, 2011, assessment was not changed stating, "property owner/agent failed to substantiate burden of proof."

Makohoniuk filed his appeal with this Appeal Board on the same grounds. Makohoniuk claims \$98,780 is the actual value and a fair assessment. He seeks \$30,000 in relief.

The subject property is a one-story frame dwelling having 1040 square feet; a 4+5 grade; full basement with 900 square-foot finish; and two garages one with 484 square feet and the second with 240 square feet. The dwelling was built in 1964. The site consists of 0.83 acres.

Makohoniuk did not appear for his scheduled hearing or submit additional evidence in his protest to this Board. Makohoniuk indicated that he did present substantial evidence at the Board of Review hearing to prove that the property was over assessed. He provided several photographs to the Board and other comparable assessments. He stated the property is in serious need of substantial repairs and maintenance.

Catherine Creighton, Deputy Dallas County Assessor, testified on behalf of the Board of Review. Creighton stated that the three equity comparables submitted by Makohoniuk were not comparable to the subject property. Creighton testified that one comparable was a one and one-half story, one was classified as agricultural realty and the other consists of 7.80 acres. The Board of Review did not provide any additional evidence. This Board notes the photographs submitted by Makohoniuk were not in the certified record as required.

After reviewing all the evidence, we find Makohoniuk failed to provide persuasive evidence in support of either his inequity claim or market value claim.

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the

property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove equity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

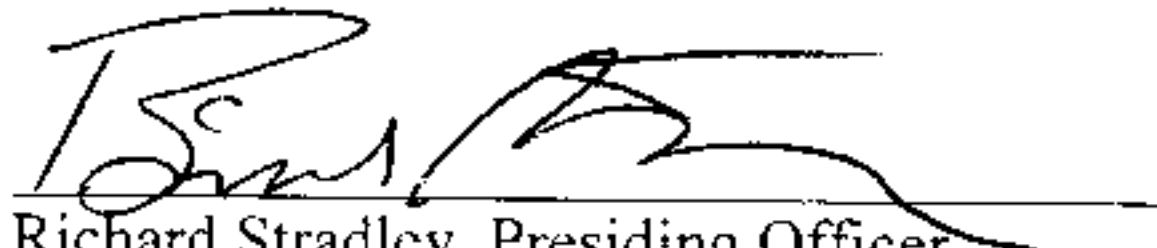
*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Makohoniuk failed to provide the necessary proof under either test.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Makohoniuk offered no evidence in support of a market value claim.

The evidence in the record does not support the claims brought before this Board. We, therefore, affirm the assessment of the subject property located at 8220 Ashworth Road, West Des Moines, Iowa, as determined by the Dallas County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Makohoniuk property located in West Des Moines, Iowa, as determined by the Dallas County Board of Review is affirmed.

Dated this 22 day November 2011.


  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

Copies to:

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| Certificate of Service  |   |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-22</u> , 2011. |   |
| By:   | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX          |
|   | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier  |
|   | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other              |
| Signature:  |  |